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October 26, 1994

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: MM Docket No. 94-115
RM-8508
Woodville, Mississippi;
Clayton and Jena, Louisiana

Dear Mr. Caton:

Transmitted herewith, on behalf of Radio KPEL-FM, Inc., are an original and four copies of its "Motion for Stay of Procedural Dates" with regard to the above-referenced rule making proceeding.

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,
FLETCHER, HEALD & HILDRETH, P.L.C.

Anne Goodwin Crump

Anne Goodwin Crump
Counsel for Radio KPEL-FM, Inc.

Enclosures

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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re)
)
Amendment of Section 73.202(b)) MM Docket No. 94-115
Table of Allocations) RM-8508
FM Broadcast Stations)
(Woodville, Mississippi and)
Clayton and Jena, Louisiana))
)

Directed to: Acting Chief, Allocations Branch

MOTION FOR STAY OF PROCEDURAL DATES

Comes now Radio KPEL-FM, Inc., licensee of Station KPEL-FM, Erath, Louisiana, by its attorneys, and respectfully requests that the Commission stay the procedural dates in the above-captioned matter. In support, the following is stated:

1. The above-captioned rule making is based on the assumption that the proponent, PDB Broadcasting, still retains the construction permit for Station WLGG(FM), Woodville, Mississippi, on Channel 299A. Thus, as presented to the public, the Notice of Proposed Rule Making and Order to Show Cause, DA-94-1047, released October 4, 1994 (NPRM), the proposal called for an on-channel upgrade for WLGG(FM) to 299C3. No other party would be able to take advantage of that new allocation.

2. In point of fact, as reflected in the Motion to Terminate being filed simultaneously herewith, which motion is incorporated herein by reference, PDB's construction permit expired by its own terms on June 13, 1994. With no attempt to reinstate that permit within thirty (30) days, the Commission

wrote PDB on August 12, 1994 and advised that the permit had been cancelled and call letters deleted effective June 13, 1994, citing Section 73.3599 of the Rules. See, Public Notice, Report No. 15878, August 19, 1994. It was not until September 30, 1994, over forty (40) days later and more than ninety (90) days since the expiration date, that PDB finally sought reinstatement. For the reasons set forth on Radio KPEL's Objection to that request, which is incorporated herein by reference, that request must fail since the action on the cancellation is final.

4. Under these circumstances, it is evident that the Commission must immediately stay the dates set forth in the NPRM and, upon review, terminate the proceeding. Clearly, the NPRM is based upon erroneous substantial matters and the public is unaware of this vital information. In fact, the proposal cannot stand as issued. If the Commission believes that there is good cause for allocating Channel 299C3 to Woodville, Mississippi, then it can do so in a new NPRM or wait until PDB or some other party seeks the allocations, with the understanding that it will be open to cross-filing. It cannot, however, let the current NPRM stand.


Conclusion

In the interim, it is evident that the public will be harmed if the procedural dates are not stayed pending termination.

Accordingly, it is respectfully requested that the Commission immediately stay the procedural dates pending termination of the subject proceeding.

Respectfully submitted,

RADIO KPEL-FM, INC.

By: 
Vincent J. Curtis, Jr.
Anne Goodwin Crump

Its Attorneys

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October 26, 1994

CERTIFICATE OF SERVICE

I, Mary A. Haller, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that true copies of the foregoing "Motion For Stay of Procedural Dates" were sent this 26th day of October, 1994, by first-class United States mail, postage prepaid, to the following:

*Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 332
Washington, D.C. 20554

*Pamela Blumenthal
Mass Media Bureau
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Mary A. Haller